

REMARKS

Interview Summary

Applicants would like to thank Examiner Shepard and Examiner Grant for the courtesy of the telephonic interviews on July 7 and July 11, 2006. During the interviews, claim 39 was discussed in view of U.S. Pat. No. 6,298,482 to Seidman et al. (“Seidman”).

In particular, the applicants’ representative requested clarification about the last Office Action in which Examiner Shepard stated that Seidman’s FIG. 4 “indicates that a SHR contains beginning and ending times for the tuning.” *See* Final Office Action of June 15, 2006, at page 2. During the interview, the applicants’ representative pointed out that the figure shows only a single TIME element 40, and Examiner Shepard clarified that, in his interpretation, the TIME element 40 is neither the beginning nor the ending time for the tuning. Instead, the beginning time is implicitly included in the figure’s “TUNE BEGIN” element, and the ending time is implicitly included in the figure’s “TUNE END” element.

Furthermore, the applicants’ representative requested the Examiners to identify the part of Seidman’s disclosure which supports Examiner Shepard’s assertion that “[t]he channel, program name and program category are linked to the ‘Tune Begin’ box because when the user stops watching a show it would be redundant to store this information again as it would be the same.” *Id.* Examiner Shepard clarified that his statement is based on his interpretation of Seidman’s FIG. 4, not on any other particular portion in Seidman’s disclosure.

Although the applicants’ representative argued that the Examiners’ interpretation of Seidman’s FIG. 4 is not supported by any disclosure in Seidman, the Examiners maintained their interpretation and, accordingly, the rejection. Thus, no agreement was reached regarding the patentability of the claims.

Claims

Claims 39-58 were pending when last examined. Claims 39, 41, 42, 44, 48, 50, 52-54, 56 and 58 have been amended, claims 40, 49 and 55 have been canceled, and claims 59-67 have been added in this Response. No new matter has been introduced. Support for the amendment can be found at least in FIGS. 6 and 7 and in the corresponding description in the specification.

Claim Rejections – 35 USC § 102

Claims 39, 41, 42, 43, 48, 50, 51, 54, 56, and 57 were rejected under 35 U.S.C. 102(e) as being anticipated by Seidman. Applicants respectfully traverse the rejections.

Claim 39, as amended, recites a computer-implemented method for processing information related to multimedia consumption. The method includes collecting information about consumption of multimedia content. The collected information identifies a user action related to consumption of content in a multimedia program that is identified by a program identifier. The method also includes storing a usage history including a user action list that includes a user action item corresponding to the user action. The user action item includes the program identifier and a reference to a content description that is related to the multimedia program and is separate from the user action list.

Seidman discloses techniques for two-way digital broadcast services. *See Abstract.* For example, reports are created about the viewers' selection histories, and those records are transmitted to a broadcast head end periodically or immediately following the selection. *See col. 1:56-65.* If the viewer selects a program, a "TUNE BEGIN" record is added to a selection history, and optionally a message indicating the program choice is sent to the head end. *See FIGS. 2A and 2B and col. 6:66 to col. 7:38.* If the viewer ends the viewing session, a "TUNE END" record is added to the selection history, and optionally a corresponding message is sent to the head end. *Id.* If the viewer responds to interactive options, an "INTERACTIVITY" or "HYPERLINK" record is added to the selection history, and

optionally a corresponding message is sent to the head end. *Id.* The formats of these different types of records, namely TUNE BEGIN, TUNE END, INTERACTIVITY, and HYPERLINK records, are illustrated in a single figure. *See FIG. 4 and col. 7:39-55.* The figure illustrates that a RECORD NUMBER 38, a DATE 39, a TIME 40, and a VIEWER PROFILE NAME 41 are present in each of the different types of records. An ACTION 42 element, however, is different for the different record types. *Id.* For a TUNE BEGIN record, information is added to the record about the selected CHANNEL 43, PROGRAM NAME 44, and PROGRAM CATEGORY 45. For a TUNE END record, however, no such information is added to the record. *Id.*

According to the Examiner, “[t]he applicant is mistaken in this interpretation of [Seidman’s] figure 4 … [which] indicates that a [single selection history record] contains beginning and ending times for the tuning … [and t]he channel, program name, and program category are linked to the ‘Tune Begin’ box.” *See Final Office Action of June 15, 2006, at page 2.* The Examiner concludes that a content description that is separate from the user action list is disclosed by “parts 43-45” (i.e., the CHANNEL 43, PROGRAM NAME 44, and PROGRAM CATEGORY 45), and accordingly, the claim is anticipated . *Id.* at page 4.

The applicants respectfully disagree.

First, contrary to the Examiner’s statement, Seidman’s FIG. 4 does not disclose separate beginning and ending times for the tuning. As the Examiner acknowledged during the interview, FIG. 4 fails to disclose separate beginning and ending times explicitly. Neither did the Examiner provide any intrinsic or extrinsic evidence supporting that such separate beginning and ending times for the tuning are inherently present in a single selection history record. (“To serve as an anticipation when the reference is silent about the asserted inherent characteristic, such gap in the reference may be filled with recourse to extrinsic evidence. Such evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.” *See Continental Can Co. USA v. Monsanto Co.* 948 F.2d 1264,1268 (Fed. Cir. 1991). *See also MPEP 2131.01(III).* “Inherency, however, may not be established by

probabilities or possibilities.” *See In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). *See also MPEP 2163.07(a).*) Applicants respectfully submit that Seidman’s FIG. 4 explicitly discloses the DATE 39 and TIME 40 elements that correspond to a beginning time in a TUNE BEGIN record and to an ending time in a TUNE END record, in full accordance with the applicants interpretation. *See col. 7:43-47.*

Second, Seidman’s FIG. 4 is also lacking any explicit disclosure supporting the Examiner’s assertion that the parts CHANNEL 43, PROGRAM NAME 44, and PROGRAM CATEGORY 45 are separate from the selection history. Seidman’s FIG. 4 shows the parts 43-45 in a separate box, but fails disclose that the parts 43-45 are separate from the selection history. Neither did the Examiner provide any intrinsic or extrinsic evidence supporting that Seidman’s parts 43-45 are inherently separate from the selection history. (As discussed above and in the prior response, Seidman actually discloses the opposite: parts 43-45 are included in the selection history records.) Thus, Seidman fails to disclose a user action item that includes a reference to a content description that is related to the multimedia program and is separate from the user action list, as required by the claim.

Third, if we assume for the sake of argument that Seidman’s CHANNEL 43, PROGRAM NAME 44, and PROGRAM CATEGORY 45 were separate from the selection history, as asserted by the Examiner, Seidman would lack a user action list in which a user action item includes the program identifier, as required by the claim. Indeed, the Examiner asserted that Seidman’s PROGRAM NAME 44 and PROGRAM CATEGORY 45 correspond to the claimed program identifier, and Seidman’s selection history (shown in FIG. 7 and including the selection history records of FIG. 4) corresponds to the claimed user action list. *See Final Office Action of June 15, 2006, at pages 2, 4 and 5.* Thus, according to the Examiner’s assertion, the program identifier would be separate from the user action list. A skilled artisan understands that a program identifier which is separate from the user action list, is not included in the user action list. But the claim explicitly requires that the program identifier be included in the user action item of the user action list. Thus in the Examiner’s interpretation, Seidman lacks the user action item which includes the program identifier.

In sum, Seidman fails to disclose a user action item that includes the program identifier and a reference to a content description that is related to the multimedia program and is separate from the user action list, as required by the claim. Thus, claim 39 should be allowed. Claims 41, 42, 43 depend from claim 39, and are allowable for at least the same reasons.

Independent claims 48 and 54 recite user action items that are similar to the user action item recited in claim 39. Thus, claims 48 and 54 should be allowable for at least the same reasons as those discussed above with reference to claim 39. Claims 50, 51, 56, and 57 are dependent claims that are allowable for at least the same reasons as their respective base claims.

Claim Rejections – 35 USC § 103

Claims 44, 45, 52, 53, and 58 were rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman in view of U.S. Pat. No. 6,292,796 to Drucker et al. (“Drucker”). Applicants respectfully traverse the rejections.

Claims 44 depends from claim 39 and recites that the reference to the content description includes a link to the content description. The Examiner admitted that Seidman fails to disclose the claimed link to the content description, and pointed to Drucker for the missing subject matter.

First, as discussed above with reference to claim 39, Seidman fails to disclose a user action item that includes the program identifier and a reference to a content description that is related to the multimedia program and is separate from the user action list. Drucker is also lacking. Drucker discloses an e-mail notification that includes one or more links to search results in medical records or literature. *See* col. 8:35-52. Drucker’s e-mail, however, is not a user action item in a user action list, as required by the claim. Neither does Drucker disclose or suggest that the links can be used in a user action item in a user action list. Thus, neither Seidman nor Drucker discloses a user action item that includes the program identifier and a reference to a content description that is related to the multimedia program and is separate

from the user action list.

Second, the Examiner argued that the line connecting two boxes in FIG. 4 corresponds to a ‘hyperlink.’ *See* Final Office Action of June 15, 2006, at page 3. But Seidman fails to disclose either explicitly or implicitly that any line in FIG. 4 corresponds to a “hyperlink.” In FIG. 4 the only information related to “hyperlink” is in a VIDEO HYPERLINK SELECTION record, and the corresponding hyperlink is not in the selection record, but it is offered to the viewer for selection during a program. *See* Seidman at col. 8:16-34. Thus, the modification of Seidman’s hyperlink would provide only a link to be used during program viewing, instead of the claimed link in a user action item included in a user action list.

Third, the Examiner failed to identify a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings to provide the claimed subject matter. Instead, the Examiner stated that the motivation would be “to give alternative information about the video” without identifying any reference or general knowledge that would give that motivation. *See* Final Office Action of June 15, 2006, at page 6. Applicants submit that, contrary to the Examiner’s suggestion, neither Seidman nor Drucker discloses or suggests giving “alternative information about the video” in a user action item.

In sum, no *prima facie* obviousness has been established, and claim 44 should be allowed. Claim 45 depends from claim 44 and should be allowable for at least the same reasons.

Claims 52 and 58 recite links similar to the link in claim 44, and should be allowable for at least the same reasons. Claim 53 depends from claim 52 and should be allowable for at least the same reasons.

New Claims

Claims 59-67 have been added. No new matter has been introduced. Support for the new claims can be found at least in FIGS. 6 and 7 and in the corresponding description in the

specification.

Claims 59-63 depend from claims discussed above, and are allowable for at least the same reasons.

Claim 64 recites a user action list that lists at least the user action and includes the program identifier, a corresponding user action time, and a reference to a related content description that is separate from the user action list. As discussed above, Seidman and Drucker fail to disclose or suggest these limitations. Thus, claim 64 is allowable. Claims 65-67 depend from claim 64 and are allowable for at least the same reasons.

CONCLUSION

Applicants respectfully request that the pending claims be allowed and the case passed to issue. Should the Examiner wish to discuss the Application, it is requested that the Examiner contact the undersigned at (415) 772-7493.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

11/28/06

Richard A. Paz

Date

Signature

Respectfully submitted,



By:

Ferenc Pazmandi
Agent of Record
Limited Recognition No. L0078
FP/rp

November 28, 2006

SIDLEY AUSTIN LLP
555 California Street, Suite 2000
San Francisco, CA 94104-1715
(415) 772-1200